General Assembly

Raised Bill No. 925

January Session, 2017

LCO No. **4358**

Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING THE COST OF PRESCRIPTION DRUGS AND VALUE-BASED INSURANCE DESIGN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective January 1, 2018*) For the purposes of this section and sections 2 to 8, inclusive, of this act, unless a different meaning is specifically prescribed:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Drug" has the same meaning as provided in section 21a-92 of the general statutes;

(3) "Health care provider" or "provider" has the same meaning as provided in section 38a-478 of the general statutes;

(4) "Health care services" has the same meaning as provided in section 38a-478 of the general statutes;

(5) "Health carrier" or "carrier" means any insurer, health care center, fraternal benefit society, hospital service corporation, medical

service corporation or other entity that delivers, issues for delivery, renews, amends or continues a health insurance policy in this state;

(6) "Health insurance policy" means an individual or group health insurance policy in this state that provides coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes;

(7) "Manufacturer" has the same meaning as provided in section 21a-70 of the general statutes;

(8) "Net drug cost" means the cost of a brand name prescription drug or generic drug net all discounts and rebates for such drug;

(9) "Pharmacy benefits manager" or "manager" has the same meaning as provided in section 38a-479aaa of the general statutes;

(10) "Value-based insurance design" means any material term in a health insurance policy that is designed to increase the quality of covered benefits or health care services while reducing the cost of such policy, benefits or health care services;

(11) "Wholesale acquisition cost" means the cost of a brand name prescription drug or generic drug, excluding any discount, rebate or other price reduction, as listed in the most recent edition of the catalog or price list a manufacturer provides to wholesalers or distributors; and

(12) "Wholesaler" or "distributor" has the same meaning as provided in section 21a-70 of the general statutes.

Sec. 2. (NEW) (*Effective January 1, 2018*) (a) On and after January 1, 2018, each health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11), (12) and (16) of section 38a-469 of the general statutes delivered, issued for delivery, renewed, amended or continued in this state shall incorporate value-based insurance design.

(b) A health carrier, in developing such value-based insurance design, shall consider services and benefits that are: (1) Provided on an outpatient basis; (2) medically beneficial and cost-effective; (3) likely to prevent hospitalization or use of emergency services; (4) preventive; and (5) at low risk of abuse or fraud.

(c) A health carrier, in determining whether a covered health care service or benefit is eligible for reduced insured or enrollee cost-sharing, shall consider such value-based insurance design in determining whether a covered health care service or benefit is eligible for reduced insured or enrollee cost-sharing.

Sec. 3. (NEW) (*Effective January 1, 2018*) On and after January 1, 2018, each group health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes delivered, issued for delivery, renewed, amended or continued in this state, that provides coverage for prescription drugs and requires a percentage coinsurance payment or deductible for a prescription drug, shall calculate the coinsurance payment or deductible based on the net drug cost of such drug.

Sec. 4. (NEW) (*Effective January 1, 2018*) On and after January 1, 2018, any contract that is entered into, renewed or amended in this state between a health carrier and a health care provider that requires the carrier to reimburse the provider for the cost of a prescription drug, the cost of administering a prescription drug or any overhead or handling cost concerning a prescription drug: (1) Shall require that the carrier separately reimburse the provider for (A) the cost of the drug, (B) the cost of administering the drug, and (C) any overhead or handling cost incurred in connection with the drug; and (2) shall not set the amount of any reimbursement of the type specified in subparagraph (B) or (C) of subdivision (1) of this section at a fixed percentage of the cost of the drug.

Sec. 5. (NEW) (*Effective January 1, 2018*) (a) Each manufacturer shall

send written notice to the commissioner if the manufacturer plans to: (1) Sell or distribute in this state (A) any brand name prescription drug that has an initial annual aggregate wholesale acquisition cost that is equal to or greater than thirty thousand dollars, or (B) any generic drug that has an initial annual aggregate wholesale acquisition cost that is equal to or greater than three thousand dollars; or (2) increase the annual aggregate wholesale acquisition cost of (A) any brand name prescription drug sold or distributed in this state by more than ten per cent or ten thousand dollars, whichever is lower, or (B) any generic drug sold or distributed in this state by more than twenty-five per cent or three hundred dollars, whichever is lower.

(b) The manufacturer shall send the notice required under subsection (a) of this section to the commissioner at least thirty days prior to the planned release date of the prescription drug or the effective date of the planned price increase, whichever is applicable. The notice shall be on a form prescribed by the commissioner and contain the following:

(1) With respect to each factor involved in the manufacturer's calculation of the wholesale acquisition cost:

(A) A description of the factor;

(B) The percentage of the total wholesale acquisition cost attributable to such factor;

(C) An explanation of the role such factor played in the manufacturer's calculation;

(2) A description of all efforts made to reduce the cost of the drug to consumers;

(3) Any increases in the wholesale acquisition cost of the drug during the previous five years;

(4) Any other information the commissioner may require; and

(5) A statement from the manufacturer certifying that the information it has disclosed to the commissioner under this section is true and accurate.

Sec. 6. (NEW) (*Effective January 1, 2018*) On March 1, 2019, and annually thereafter, each manufacturer shall submit to the commissioner, in a form prescribed by the commissioner, a report disclosing the value of all price concessions the manufacturer provided to each pharmacy benefits manager for each prescription drug administered by such manager during the previous calendar year. The total shall be expressed as a percentage of the wholesale acquisition cost for the drug. The manufacturer shall certify that that the information it has disclosed to the commissioner in the report is true and accurate.

Sec. 7. (NEW) (*Effective January 1, 2018*) Not later than March 1, 2019, and annually thereafter, the commissioner shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to insurance, in accordance with the provisions of section 11-4a of the general statutes, concerning trends in the cost of prescription drugs sold or distributed in this state. The commissioner's report shall include, but need not be limited to, information manufacturers have disclosed to the commissioner under sections 5 and 6 of this act.

Sec. 8. (NEW) (*Effective January 1, 2018*) The commissioner may adopt regulations, in accordance with chapter 54 of the general statutes, to carry out the provisions of sections 1 to 7, inclusive, of this act.

Sec. 9. (NEW) (*Effective from passage*) (a) There is established a task force to study value-based pricing of prescription drugs. Such study shall include, but need not be limited to: (1) An analysis of the information disclosed to the commissioner under sections 5 and 6 of this act; (2) recommended criteria for use by state agencies in

determining whether the cost of a prescription drug is reasonable; and (3) recommended legislation or regulations to reduce the cost of any unreasonably costly prescription drug.

(b) The task force shall consist of the following members:

(1) Two appointed by the speaker of the House of Representatives, who shall have expertise in health care;

(2) Two appointed by the president pro tempore of the Senate, who shall have expertise in consumer protection;

(3) One appointed by the majority leader of the House of Representatives, who shall be a physician licensed under chapter 370 of the general statutes;

(4) One appointed by the majority leader of the Senate, who shall have expertise in employment policy;

(5) One appointed by the minority leader of the House of Representatives, who shall have expertise concerning the pharmaceutical industry;

(6) One appointed by the minority leader of the Senate, who shall be a pharmacist licensed pursuant to chapter 400j of the general statutes;

(7) Two appointed by the Governor, who shall have expertise in the insurance industry;

(8) The Commissioner of Social Services, or the commissioner's designee;

(9) The Insurance Commissioner, or the commissioner's designee; and

(10) The Comptroller, or the Comptroller's designee.

(c) Any member of the task force appointed under subdivision (1),

(2), (3), (4), (5) or (6) of subsection (b) of this section may be a member of the General Assembly.

(d) All appointments to the task force shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(e) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the task force from among the members of the task force. Such chairpersons shall schedule the first meeting of the task force, which shall be held not later than sixty days after the effective date of this section.

(f) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to insurance shall serve as administrative staff of the task force.

(g) Not later than February 1, 2018, the task force shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to insurance, in accordance with the provisions of section 11-4a of the general statutes. The task force shall terminate on the date that it submits such report or February 1, 2018, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2018*	New section
Sec. 2	*January 1, 2018*	New section
Sec. 3	*January 1, 2018*	New section
Sec. 4	*January 1, 2018*	New section
Sec. 5	*January 1, 2018*	New section
Sec. 6	*January 1, 2018*	New section
Sec. 7	*January 1, 2018*	New section
Sec. 8	*January 1, 2018*	New section
Sec. 9	*from passage*	New section

Statement of Purpose:

To: (1) Require manufacturers of prescription drugs to disclose pricing information to the Insurance Commissioner; (2) require that certain insurance policies incorporate value-based insurance design; and (3) establish a task force to study methods of controlling the cost of prescription drugs.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]